

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: MAR 25 1992

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(6) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated on [REDACTED], in the State of [REDACTED]. The purposes for which the organization is formed are as follows:

"To unit in a common organization in order to promote and advertise collectively for the common business interests of the members in order to realize the benefits of association-negotiated quantity purchasing and to foster an exchange of ideas between members."

The information submitted with your Application Form 1024 indicates that in accordance with section 3 of a Franchise Agreement, owners of [REDACTED] USA franchises located within a designated capital district area of [REDACTED] shall be required to join and remain a member of said association and shall agree to be bound by decisions of the majority of the members who vote regarding common advertising, including expenditures, assessments and dues.

The information submitted with your application indicates that your primary activity consists of promoting the business interests of the franchise members by providing general advertising for the membership, with funds contributed, in the form of dues and assessments, by the franchise members.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a business league as an association of persons having some common business interest, the purpose of which is to promote such common interest. Its activities should be directed towards the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons.

In Revenue Ruling 58-294, 1958-1 C.B. 244 an association was organized and operated for the purpose of promoting uniform business, advertising and fair trade practices in connection with the manufacture and sale of a certain patented product. Membership in the association was limited to any person, firm, or corporation licensed to manufacture and sell the specified product. It was held that since the association was engaged in furthering the business interests of the dealers in the particular patented product, rather than the improvement of business conditions of one or more lines of business, it does not qualify for exemption from Federal income tax as a business league under section 501(c)(6) of the Code.

In the case of National Muffler Dealers Association v. U.S. 440 U.S. 472 (1979) the court held that an association of a particular brand name of muffler dealers does not qualify for exemption because the association is not engaged in the improvement of business conditions of a line of business.

An IRC 501(c)(6) organization's primary activity cannot be performing particular services for members.

In Revenue Ruling 67-77, 1967-1 C.B. 138 an organization composed of dealers in a certain make of automobile in a designated area is organized and operated for the primary purpose of financing general advertising campaigns to promote, with funds contributed by the dealer members, the sale of that make of automobile. Held, the organization is performing particular services for its members instead of the automobile industry as a whole and is not entitled to exemption as a business league under 501(c)(6) of the Internal Revenue Code.

Your organization's activities have substantial similarities to those organizations described in the court case and revenue rulings cited above.

Like the organization described in Revenue Ruling 58-294, your organization is organized and operated for the purpose of promoting uniform advertising in connection with a particular franchised service and membership in the association is limited to owners of the particular franchise. Similar to Revenue Ruling 67-77, your organization is composed of owners of a certain franchise in a designated area and, you are organized and operated for the primary purpose of financing general advertising campaigns to promote, with funds contributed by franchise owner members, the sales of that particular franchise.

As in the case of National Muffler Dealers Association, which was an association of owners of a particular brand name of muffler, your organization is an association of owners of a particular franchise. It was held in each of these cited Revenue Rulings as well as in the Court case that each of these organization's was performing particular services for its members and not engaged in the improvement of business conditions of a line of business. Your primary activity, which consists of providing general advertising for members of the organization with funds contributed by the membership, constitutes particular services for your members. Promoting the business interest of owners of a particular franchise does not further the business condition of one or more lines of business.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(6) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,


District Director

Enclosure: Publication 892